Berrill & Watson
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9 July 2018

Senate Standing Committees on Economics
PO Box 6100
Parliament House ACT 2600

Dear Senate Economics Legislative Committee,

RE: Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018

Berrill and Watson Lawyers is a consumer law firm practising solely in the areas of superannuation, insurance and financial services law.

We support the general policy setting of the Bill to enhance people's retirement savings specifically by reducing the number of multiple accounts, reuniting people with inactive accounts, and better targeting life insurance within superannuation.

We resubmit our submission made to Treasury regarding the exposure draft dated 5 June 2018.

We also endorse the submission of the Consumer Action Law Centre (CALC) and the Financial Rights Legal Centre FRLC) dated 9 July 2018.

In particular, we agree with their submission that the removal of default insurance for superannuation accounts with balances below $6000 should only apply to inactive accounts and not to active accounts.

The removal of default cover for under 25's and the measures to consolidate and repatriate inactive accounts will mean that when many young people reach their 25th birthdays, they will have active accounts with more than $6000 entitling them to default insurance cover.

However, there is a significant cohort of people over the age of 25 who will not be eligible for default insurance cover either because their superannuation accounts are very low or because they are new entrants into the Australian workforce and joining their first superannuation fund.

People such as:
•indigenous Australians with limited work histories
•new immigrants

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•single mothers or parents entering or returning to the workforce after maternity/paternity leave
•people with disabilities with limited work histories
•casual workers with limited work histories or problematic employer compliance with superannuation obligations
•people with work histories in the Gig economy or other self-employment or independent contract arrangements

will often have very small account balances on turning 25 or open their first superannuation fund after age 25. This would mean that such people would be ineligible for default insurance cover for upwards of two years or more, depending on the level and regularity of their income and when they accrue sufficient superannuation to hit $6000 after deduction of administration fees and taxes.

Many people from such vulnerable communities work in physically demanding or high-risk occupations and their only opportunity to obtain affordable insurance cover would be through group insurance in superannuation. If they are locked out of default insurance cover for a significant period of time, they could be struck down by a disability or die without any insurance to top up their meagre account balances and thereby they (or their dependents) would almost certainly be reliant on Centrelink income support.

Whilst we agree that small accounts could be unnecessarily eroded by insurance premiums, this is really only true of inactive accounts. Indeed, there have been many examples in the media of such accounts reducing to nil with a combination of administration fees and insurance premiums.

However, active superannuation accounts fed by ongoing Superannuation Guarantee contributions will in all likelihood grow and not be eroded by insurance premiums to nil. If there are significant periods of inactivity, that would be protected by the triggering of the 13-month inactive account provision under section 68AAAA or perhaps by some lesser measure of inactivity on small accounts.

Accordingly, we strongly endorse the recommendation of CALC and FRLC that section 68AAB should be amended to exempt active accounts under $6,000 from the removal of default insurance.

We would be happy to expand on the submissions in any public hearings.

Yours sincerely,

John Berrill
Principal
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Encl. Berrill & Watson Protecting Your Super Exposure Draft Submission

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5 June 2018

By email: superannuation@treasury.gov.au

Manager, Regulatory Framework Unit
Retirement Income Policy Division
The Treasury
Langton Crescent
Parkes ACT 2600

Dear Sir/Madam,

Protecting Your Super: Exposure Draft

We have had the benefit of considering the joint submission of the Consumer Action Law Centre (CALC) and the Financial Rights Legal Centre (FRLC) in relation to the issue of insurance in superannuation.

We agree with the joint submissions of CALC and the FRLC and provide the following to compliment and highlight some of the issues identified by CALC and the FRLC and also to provide some case studies.

For too long consumers have been subject to duplication of fees and costs associated with having multiple superannuation accounts. The measures announced will, we believe, make a substantial change to those costs which should mean substantial further retirement savings for consumers into the future.

However, insurance in superannuation is not merely a cost (in the way an administrative fee is), it also provides valuable benefits to sick, injured and vulnerable people and is good value for money for most super fund members, as confirmed by the Productivity Commission's recent draft report.

The Productivity Commission's draft report is one of the most comprehensive bodies of work undertaken in relation to superannuation and insurance, and the recommendations and findings contained in the draft report ought to be given strong consideration. Importantly, removing insurance cover for accounts under $6,000 has not been recommended by the Productivity Commission.

In relation to certain specific provisions in the Protecting Your Super package, we are concerned that there could be unintended consequences, including increasing the cost of insurance premiums for fund members if all of the proposed measures are fully implemented in their current state. Nonetheless, we support the vast majority of the measures in their current form.

Proposed s.68AAA – *Inactive accounts*

We support the introduction of this provision entirely. We believe that insurance cover should only be provided to active superannuation funds or those funds where a member has elected to retain their cover.

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In the past there has been excessive account erosion. Removing insurance on inactive accounts will, we believe, lead to substantial savings to fund members, that is particularly so given the improved account consolidation measures that also form a part of this package.

Whilst we acknowledge that there will be some people who will lose insurance cover as a result of this measure, and many of those are likely to be people who are already vulnerable, it is the case that excessive account balance erosion on inactive accounts has been a significant problem in the past and action is necessary to prevent that continuing.

Proposed s.68AAB – ***Accounts under $6,000***

We do not support the proposed s.68AAB. The implementation of this proposed measure could have deleterious effects on both the consumer side, and the insurer side. That is, insurance for many vulnerable low-income Australians would be lost. From the insurer perspective, removing insurance cover from all accounts under $6,000 (including active accounts) would remove a very significant number of people from the risk pool, and will likely lead to higher premiums rates for the remaining insured population.

In addition, we recognise that one of the concerns in superannuation is that it is too complex, and consumers are not engaged. It is important that the new measures are simple to navigate for every day people. If insurance is simply provided to an active employment superannuation account, then we believe that is easy for consumers to understand.

The members affected by this proposed change are likely to be the most vulnerable communities who are likely to have low account balances. Those communities include:

a) Indigenous Australians;
b) Migrant workers;
c) Single mothers, or parents returning from maternity/paternity leave;
d) People working in the gig economy or who are working in casual or irregular work.

If s.68AAB is implemented some of the people in these communities will be actively employed, receiving super contributions, but will have no insurance cover for over 2 years. Many people from these communities will be working in physically demanding or high-risk roles. Sickness and Disability are inherently unpredictable, and we are not aware of any sound policy reason for allowing these vulnerable communities to be exposed to this risk in this way.

The Productivity Commission has made recommendations including that working Australians have one superannuation fund which moves with them when they change employer. Given the potentially significant consequences on the cost of premiums that the proposed s.68AAB could have, we think that at it would be prudent and sensible to monitor the effectiveness or otherwise of the account consolidation measures (s.68AAA) over a 2 year or longer period before implementing the proposed s.68AAB.

s.68AAC – opt-in insurance for under 25's

We agree with the views of CALC.

We hope that the above submissions can be considered as a part of the deliberations in relation to these proposed changes.

Yours sincerely,

Paul Watson
Principal
Berrill & Watson Lawyers

Case Studies – Annexure 1

Annexure 1 - Case Studies

Set out below are some case studies of people whom we have assisted who, if s.68AAB is implemented, would not have insurance cover, and who would otherwise would be reliant upon the Disability Support Pension. The names of the claimant and fund have been de-identified, but the factual circumstances are real.

Case Study 1. Joe

Joe was a 32-year-old member of a retail superannuation fund and had emigrated to Australia and had worked in a bakery. Due to having arrived in Australia in his 20's and the low paying nature of the work he performed, Joe had accrued an account balance of $4,925. Joe contracted Leukaemia.

Joe claimed the TPD benefit under the retail fund which was accepted by the fund and insurer, and the benefit payable to Joe was over $190,000.

Had Joe not had insurance cover, he would have had no rights to compensation and would have been destitute.

Case Study 2. Trevor

Trevor was a storeman and machine operator and was 34 years old at the time that he was diagnosed with Multiple Sclerosis. Trevor was a member of a retail superannuation fund and had had a broken work history. Due to his broken work history at the age of 34 Trevor had accrued an account balance in his superannuation fund of $1,642.

Trevor had a dependent wife and child and a mortgage.

Trevor is now unable to work due to progressive multiple sclerosis. Trevor was able to claim TPD insurance through his retail superannuation fund, and received approximately $400,000. Had Trevor not received the TPD benefit, Trevor would not have had any rights to any form of compensation, and would have been entirely reliant on the disability support pension.

Case Study 3. Luigi

Luigi was a migrant worker who arrived in Australia at the age of 31 in 2012 and who worked in an orchard as a fruit picker. Luigi was a member of an industry superannuation fund.

Luigi worked from 2013 until 2015 in the orchard performing physical work involving carrying, picking and lifting fruit. Whilst performing that work, Luigi suffered a fall and suffered a serious back injury and was not able to perform any work from that point. At the point of his injury, Luigi had accrued an account balance of approximately $5,700.

Luigi claimed the TPD benefit from his superannuation fund and his claim was accepted. Luigi received approximately $140,000. In addition to those monies, Luigi received an amount in respect of workers compensation. Given the workers compensation monies, Luigi was not able to claim Centrelink benefits for about 2 years.

Summary – in each of the examples above, if s.68AAB is implemented as it presently is, none of the above fund members would have any insurance cover.